

The Orissa Gazette



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1818, CUTTACK, SATURDAY, SEPTEMBER 29, 2007 / ASVINA 7, 1929

LAW DEPARTMENT

NOTIFICATION

The 29th September 2007

No. 11181/Legis—The following Ordinance promulgated by the Governor of Orissa on the 26th September, 2007 is hereby published for general information.

ORISSA ORDINANCE No. 2 OF 2007

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE, 2007

AN

ORDINANCE

FURTHER TO AMEND THE ORISSA CO-OPERATIVE
SOCIETIES ACT, 1962.

WHEREAS the legislature of the State of Orissa is not in session;

AND WHEREAS the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Co-operative Societies Act, 1962 in the manner hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Fifty-eighth Year of the Republic of India:—

Short title
and
commence-
ment.

1. (1) This Ordinance may be called the Orissa Co-operative Societies (Amendment) Ordinance, 2007.

(2) Clause (ii) of section 10 of this Ordinance shall be deemed to have come into force on the 3rd day of July, 2007 and the remaining provisions shall come into force at once.

Amendment
of section 2.

2. In the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the principal Act), in section 2,—

Orissa Act
2 of 1963.

(a) after clause (c-1), the following clause shall be inserted, namely:—

“(c-2) “Co-operative Credit Society” means the Orissa State Co-operative Bank, Central Co-operative Bank, Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers’ Service Co-operative Society by whatever name they are called and registered under this Act”;

(b) in clause (e), after the words “any similar Bank” and before the words “and includes such financing institutions” the words “or any financial institutions registered under the Reserve Bank of India Act, 1934” shall be inserted; and

2 of 1934.

(c) after clause (f-2), the following clause shall be inserted, namely:—

“(f-3) “National Bank” means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981”.

61 of 1981.

Amendment
of section 7.

3. In the principal Act, in sub-section (3) of section 7, for the words, “three months” appearing after the words “within a period of” and before the words “from the date of”, the words, “sixty days” shall be substituted.

Amendment
of section 12.

4. In the principal Act, in sub-section (4-a) of section 12, for the words “three months” the words “sixty days” shall be substituted.

Amendment
of section 16.

5. In the principal Act, in sub-section (1) of section 16, for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that nothing in this clause shall debar the Co-operative Societies to admit Self Help Groups as member."

Amendment
of section 17.

6. In the principal Act, in section 17, after the proviso the following proviso shall be inserted, namely:—

"Provided further that the Co-operative Credit Society shall not be bound to affiliate themselves to and become members of the State Co-operative Union,"

Amendment
of section 18.

7. In the principal Act, in section 18, in sub-section (1), after the words "A society" and before the words "may admit any person" the words "other than a Co-operative Credit Society" shall be inserted.

Amendment
of
section 19.

8. In the principal Act, section 19 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Save as provided in sub-section (1), a member of a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall not have the right to vote unless he has deposited such amount for such period as may be specified by the Registrar from time to time."

Amendment
of section 21.

9. In the principal Act, in section 21, in the proviso to sub-section (1), after clause (c), the following clause shall be inserted, namely:—

"(d) where the member is a Self Help Group, through the head of such Group."

Amendment
of section 28.

10. In the principal Act, in section 28,—

(i) in clause (a) of sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the Committee of a Co-operative Credit Society while taking action under sub-clauses (vii) and (viii) shall give due regard to the guidelines issued by the Registrar under sub-section (2) of section 33-A";

(ii) in sub-clause (iv) of clause (g) of sub-section (2), for the words "sixty-six months", the words "seventy-five months" shall be substituted; and

(iii) in sub-section (3-b), after clause (2) the following clause shall be inserted, namely:—

"(3) where a Chief Executive Officer appointed by the Committee of a State Co-operative Bank or Central Co-operative Bank, does not possess the requisite qualifications laid down in the proviso to clause (b) of sub-section (1) of section 33-A, the said Bank shall, at the request of National Bank or the Reserve Bank of India, remove the Chief Executive Officer after giving him a reasonable opportunity of being heard."

Amendment
of section
28-B.

11. In the principal Act, in the proviso to section 28-B, after the words "any Co-operative Society", the words "other than a Co-operative Credit Society" shall be inserted.

Amendment
of section 31.

12. In the principal Act, in sub-section (1) of section 31, after the proviso, the following proviso shall be inserted, namely:—

"Provided further that there shall be only one nominee of the State Government in the Committee of the State Co-operative Bank and the Central Co-operative Bank, and there shall be no nominee of a State Government in the Committee of a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society."

Amendment
of section 32.

13. In the principal Act, in section 32,—

(i) in sub-section (1),—

(a) for the words "after consulting the Financing Bank of the Society", the words and commas "after consulting, in case of a State Co-operative Bank or a Central Co-operative Bank, the Reserve Bank of India and in case of any other Society, the Financing Bank of such Society" shall be substituted;

(b) for the words "two years" and "four years", the words "two months" and "six months" shall, respectively, be substituted; and

(c) after the proviso, the following proviso along with the Explanation shall be inserted, namely:—

“Provided further that the Committee of a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall be superseded under this sub-section, if the Society incurs loss for consecutive period of three years or if serious financial irregularities in the functioning of the society have been detected or there is judicial order to this effect or there is perpetual lack of quorum in the meetings of the Committee of the society.

Explanation.— “perpetual lack of quorum” means failure of holding three consecutive meetings for want of quorum.”

(ii) after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) The office-bearer of the superseded Committee referred to in the second proviso to sub-section (1) shall not be eligible for being chosen as office-bearer of any society until expiry of a period of three years from the date of such supersession.”.

Amendment
of section
33-A.

14. In the principal Act, section 33-A shall be renumbered as sub-section (1) thereof,—

(i) in sub-section (1) as so renumbered, in clause (b), the following proviso shall be inserted, namely:—

“Provided that the qualification of the Chief Executive Officer of the State Co-operative Bank and Central Co-operative Banks shall be such as may be stipulated by the National Bank in consultation with the Reserve Bank of India”; and

(ii) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), the Registrar, in consultation with the National Bank may issue guidelines in the matter of personnel policy, staffing pattern, recruitment and fixation and revision of pay and allowances of the employees of the Co-operative Credit Society keeping in view the volume of business, viability and profitability of such society.”.

Amendment
of section 41.

15. In the principal Act, in sub-section (1) of section 41, the following proviso along with the Explanation shall be inserted, namely:—

“Provided that in case of Co-operative Credit Society the State Government shall not subscribe directly to the share capital of the said society exceeding twenty-five per centum of the share capital of such society.

Explanation.—Nothing in this sub-section shall prevent the State Government or a Co-operative Credit Society to reduce the share of the State Government in a society in such manner as may be prescribed.”.

Insertion of
new section
47-A.

16. In the principal Act, after section 47, the following section shall be inserted, namely:—

“Compliance
of directions
on prudential
norms etc.

47-A. Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall comply with such directions relating to prudential norms and Cash Reserve to Asset Ratio as may be issued by the Registrar and the Auditor-General in consultation with National Bank.”.

Amendment
of section 56.

17. In the principal Act, in section 56,—

(a) in sub-section (1), in clause (b), the following proviso shall be inserted, namely:—

“Provided that nothing in this clause shall apply to a Co-operative Credit Society”; and

(b) in sub-section (2),—

(i) in clause (a), the following proviso shall be inserted, namely:—

“Provided that the Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall pay such dividend to its members in accordance with the guidelines laid down by the Registrar in consultation with the National Bank;” and

(ii) clause (d) shall be omitted.

Amendment
of section 57.

18. In the principal Act, for section 57, the following section shall be substituted, namely:—

“57. A Society may invest or deposit its funds, which are not utilized in its business operation,—

(a) in any financing Bank as defined in clause (e) of section 2, or

(b) in any other financial institution which shall be subject to such guidelines as may be prescribed by the Reserve Bank of India.”.

Amendment
of section 58.

19. In the principal Act, in section 58, in sub-section (1), the following provisos shall be inserted, namely:—

“Provided that no Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers’ Service Co-operative Society shall accept deposits from any person other than its members :

Provided further that any Co-operative Credit Society may receive loan from any financing Bank.”.

Amendment
of section 59.

20. In the principal Act, in section 59, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers’ Service Co-operative Society shall not advance any loan to any person other than a member.”.

Amendment
of section 62.

21. In the principal Act, in section 62, in sub-section (1), —

(a) after the proviso to clause (i), the following proviso shall be inserted, namely:—

“Provided further that the accounts of the Orissa State Co-operative Bank and the Central Co-operative Bank shall be audited by the Chartered Accountants engaged by the Auditor-General with the approval of the National Bank .”.

(b) after clause (iv), the following clause shall be inserted, namely: —

"(v) save as otherwise provided in clause (ii), a special audit of the Orissa State Co-operative Bank and the Central Co-operative Bank may be conducted by the Auditor-General on requisition from the Reserve Bank of India and a report shall be submitted to the said Bank within the time stipulated by it."

Insertion of
new section
117-A.

22. In the principal Act, after section 117, the following section shall be inserted, namely:—

"Prohibition
against the
use of word
'Bank'.

117-A (1) No society other than a Co-operative Bank shall use the word "Bank", "Banker", "Banking" or any other derivative of the word "Bank" as part of its name.

(2) If, the Registrar is satisfied that any Society other than a Co-operative Bank has violated the provisions of sub-section (1), he may, after giving an opportunity of being heard to the Society, take steps to cancel the registration of the Society in accordance with the provisions of this Act."

Amendment
of
section 123.

23. In the principal Act, in section 123, after the words "or any class of Societies" and before the words "from any of the provisions", the words "other than a Co-operative Credit Society" shall be inserted.

Amendment
of
section 133-A.

24. In the principal Act, in section 133-A,—

(a) for clause (ii), the following clause shall be substituted, namely:—

"(ii) if so required by the Reserve Bank of India in the circumstances mentioned in section 13-D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, 47 of 1961, the Registrar shall, within one month from the date of advice of the said Reserve Bank, make an order for winding up of the bank and for appointment of a liquidator"; and

(b) in clause (iii), for the words "the Registrar shall pass an order" the words and commas "the Registrar shall, within one month from the date of receipt of such writing, shall pass an order" shall be substituted.

Insertion of
new section
133-B.

25. In the principal Act, after section 133-A, the following section shall be inserted, namely:—

"Inclusion of professional Directors.

133-B. (1) Notwithstanding anything contained in this Act, the State Co-operative Bank and Central Co-operative Banks shall have at least three Directors in their Committee who have special knowledge or experience in the field of accountancy, law, banking, management, agriculture or rural economy and if such category of persons do not get elected, the Committee of that Society may co-opt persons having special knowledge or experience in the field of accountancy, law, banking, management, agriculture or rural economy who shall have the voting rights.

(2) Where any person has been elected or nominated as Director under sub-section (1) without having the requisite qualification mentioned therein, he shall, in consultation with the National Bank, be removed from the office after giving him a reasonable opportunity of being heard."

General amendment.

26. In the principal Act,—

(i) for the expression "Deposit Insurance Corporation Act, 1961" wherever it occurs, the expression "Deposit Insurance and Credit Guarantee Corporation Act, 1961" shall be substituted; and

(ii) for the words "Chief Executive" wherever they occur the words "Chief Executive Officer" shall be substituted.

Savings of election to the committee.

27. Nothing in the Orissa Co-operative Societies (Amendment) Ordinance, 2007 shall,—

(a) affect the process of election already commenced or to be commenced for reconstitution of the Committees which were dissolved under sub-clause (i) of clause (g) of sub-section (2) of section 28;

(b) have effect of causing dissolution of the Committee which are constituted in accordance with the provisions of this Act immediately before the date of commencement of the said Amendment Ordinance.

MURLIDHAR CHANDRAKANT BHANDARE
GOVERNOR OF ORISSA

Dated the 26th
September, 2007.

B.K. PATEL
Principal Secretary to Government